IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5725 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SUNDERLAL ISHVARLAL TAHELIYANI

Versus

STATE OF GUJARAT

Appearance:

MR HARESH J TRIVEDI for Petitioner

MR SAMIR J DAVE, AGP for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 01/09/2000

ORAL JUDGEMENT

#. Heard learned counsel for the parties.

#. The petitioner was placed under suspension as a criminal case i.e. corruption case was there against

him. In the Criminal Case the petitioner has been acquitted by the Special Court and it is not in dispute that the matter has been carried out by the State of Gujarat in appeal and the appeal is pending in this court.

#. The learned counsel for the petitioner placing reliance on a decision of the Division Bench of this court in the case of State & Anr. Vs. B.C.Dwivedi 1983(2) GLR 1315 and contends that this order of suspension of the petitioner could not have been continued. Shri Samir Dave on the other hand in contra submitted that in view of the Government Resolution dated 8.7.70 once person is reinstated after suspension, again he cannot be suspended and the aforesaid Government Resolution would not be applicable in the instant case because the petitioner is still under suspension.

#. The suspension of the petitioner from the services was admittedly on the ground of a criminal case registered against him and after his acquittal in the criminal case the authority has to consider the matter afresh whether that order of suspension has to be continued or not and this consideration cannot be withheld only on the ground that appeal has been filed by them against order of the petitioner's acquittal in Criminal Case. Be that as it may. At this stage, I am not expressing any final opinion as I consider it to be appropriate that first the Secretary, Panchayat Rural Housing and Development may consider the matter in the light of the decision of the Division Bench of this court and a circular may also be issued to all concerned officers where he agrees that after acquittal of the employee in criminal case his suspension cannot be continued.

#. The Special Civil Application is dismissed in terms that the Secretary, Panchayat Rural Housing and Development may consider the matter of the petitioner whether after his acquittal in the Criminal case he can be continued under suspension in the light of the decision of the Division Bench in the case of State & Anr. Vs. B.C.Dwivedi (supra) and where he is satisfied he can be, forthwith the petitioner shall be given all consequential benefits. Where the Secretary considers that the petitioner may continue under suspension, a reasoned order be passed and copy of the same be sent to him by Registered Post A.D.

Liberty is granted to the petitioner for revival of the Special Civil Application, in case of any

difficulty.

(S.K.Keshote, J.)

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